

Application. No. 10/706,062
Amendment dated January 18, 2005
Reply to Office Action of October 1, 2004

REMARKS/ARGUMENTS

Reconsideration of the above-identified application is respectfully requested in view of the foregoing amendments and the following remarks. Claim 23 has been added. Claims 1 and 17 have been amended. Claims 1 - 23 remain in the case.

The claims of the instant application are drawn to a unique surgical headlamp wherein a single, centrally disposed housing is affixed to a headband. The housing is located above the eyes of the wearer. Within the single housing are two, independently supported and adjustable lamp housings adjacent one another. Each independent lamp housing contains one or more LED light sources and, typically, one or two reflectors. The two housings provide for converging two independent light beams upon a single point of interest to the surgeon or other wearer.

The drawings were objected to for failing to show a switch. A generic switch has been added to FIGURE 1 and the appropriate text within the specification has been amended. No new matter has been added.

The specification was objected to as allegedly containing a grammatical error. The sentence reads: "A pair of lamp housings, each containing one or more low wattage (i.e., approximately 3 watts) LEDs and one or more reflectors, is mounted on an adjustable headband." Applicant respectfully believes that the sentence is correct as submitted. The subject of the sentence, "pair" (singular), agrees with the singular form of the verb "is." Applicant respectfully traverses the Examiner's objection to the specification.

Claims 1 - 4 and 7 - 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 5,115,382 for HEADLAMP APPARATUS, issued May 19, 1992 to Robert C. Smith in view of United States Patent No. 6,554,444 for GAZING POINT ILLUMINATING DEVICE, issued April 29, 2003 to Jun-ichi Shimada et al. SMITH teaches a headband having a single, centrally located lamp housing mounted in a forward

facing direction thereupon. SHIMADA et al. teach a pair of goggles having independent lamp housings affixed at the outside peripheral edge of each goggle lens. However, the SHIMADA et al. housings do NOT contain light sources intended to illuminate the surgical work site. Rather, SHIMADA et al. use light beams emanating from the housings to control an adjusting/steering mechanism for overhead lights which provide the actual working illumination to a surgical site or the like.

SHIMADA et al. neither teach nor suggest a pair of lamp housings adjacent one another as disclosed and claimed by Applicant. The Merriam-Webster on-line dictionary defines adjacent as: "a: not distant: nearby <the city and adjacent suburbs> b: having a common endpoint or border <adjacent lots> <adjacent sides of a triangle> c: immediately preceding or following 2 of two angles: having the vertex and one side in common." Applicant's lamp housings ARE adjacent; the SHIMADA et al. lamp housings ARE NOT adjacent.

Further, to modify the SHIMADA et al. apparatus to attempt to derive Applicant's apparatus would destroy the functionality thereof. Putting the two SHIMADA et al. lamp housings adjacent one another would place them in front of the viewer's eyes, thereby rendering the goggles useless. In keeping with the long held principles of *In re Gordon*, 221 U.S.P.Q. 1125-1127 (Fed. Cir. 1984), it is improper to combine a reference wherein the necessary modification thereto would render the prior art device inoperable. The modification of the SHIMADA et al. device would indeed render the device inoperative.

Independent claims 1 and 17 have been amended to positively recite that Applicant's lamp housings are disposed within an outer lamp housing, the outer lamp housing being centrally disposed on the front portion of the headband. Neither SMITH nor SHIMADA et al., independently or in combination, teach or suggest plural, independently mounted and adjustable lamp housings disposed within a centrally mounted outer lamp housing. This amendment overcomes the

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rejection of claim 1 under 35 U.S.C. §103(a) as being unpatentable over SMITH in view of SHIMADA.

Regarding claim 2, SMITH teaches only a SINGLE light source (i.e., housing). While SMITH shows the SINGLE housing pivotally affixed to the headband, this arrangement is still very different from Applicant's structure. In Applicant's inventive headlamp as disclosed and now claimed, the lamp housings are EACH independently, pivotally attached WITHIN the single outer housing. Adding the teaching of SHIMADA et al. still fails to suggest Applicant's unique structure. The SHIMADA et al. lamp housings 5 are integral with (i.e., rigidly attached to) the goggle frame 6 (FIGURE 1). SMITH fails to suggest any provision of independent light sources which may be converged. In fact, SMITH fails to provide any teaching of two or more light sources, converged or non-converged. No movement of a lamp housing is taught or suggested in SHIMADA et al., so combining SHIMADA et al. with SMITH does not obviate Applicant's apparatus.

The recitations of claims 2 - 4 and 7 - 16 are all additional limitations to independent claim 1. As such, Applicant believes that claims 2 - 4 and 7 - 16 are now allowable.

Claims 5 and 6 were rejected under 35 U.S.C. §103(a) as unpatentable over SMITH in view of SHIMADA et al. and further in view of United States Patent No. 4,288,844 for ELECTRICALLY FOCUSED SURGICAL LIGHT, issued September 8, 1991 to Kenneth J. Fischer et al. The teaching of FISCHER et al. is directed to a large overhead lamp system for an operating room or similar environment. An electrical switching system, in combination with lamps having multiple filaments, is used to selectively provide broad or narrow fields of illumination (i.e., "flood" or "spot" lights) by selecting which filaments of which of multiple lamps are selected.

The FISCHER et al. arrangement effectively performs a focusing function as the multiple lamp filaments are arranged in a front-to-back manner so that the light from a particular filament is focused differently by the lamp's reflector.

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Selective switching of filaments within selective lamps focuses the output of the FISCHER et al. multi-lamp unit at a desired point. Adding the teaching of FISCHER et al. to that of SMITH and SHIMADA et al. still fails to teach or suggest Applicant's invention. Applicant relies on no electrically actuated mechanism to converge the beams of light from the centrally mounted independent light sources. The reflectors within Applicant's light source are fixed relative to the LED light source and to each other. In the normal orientation and adjustment, the light beams from each of Applicant's independent light sources converges at a point approximately 14" forward of the light sources. To change the point of convergence (NOT necessarily the focal point of any light housing), each lamp housing is independently moved to converge the respective light beams at the desired spot.

Applicant believes that the amendment of claim 1 discussed hereinabove overcomes the rejection of claims 5 and 6 under 35 U.S.C. §103(a) as being unpatentable over SMITH in view of SHIMADA et al. and further in view of FISCHER et al.

Claims 17 - 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over SMITH in view of SHIMADA et al. Claim 17 has been amended in a manner similar to claim 1 to positively recite that independent lamp housings are disposed with an outer housing. For at least the reasons already discussed hereinabove, the addition of the teaching of SHIMADA et al. to those of SMITH fails to obviate Applicant's construction, wherein independently adjustable LED lamp housings are adjacently disposed within a centrally disposed outer lamp housing. Claim 17 is now believed allowable. Likewise, claims 18 - 23 depending therefrom are believed allowable as they merely recite additional limitations to an allowable claim.

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As all rejections are overcome, Applicant respectfully requests that claims 1 - 23 be allowed and the application passed to issue.

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On _____

1/18/05
(Date of Deposit)

Mark Levy, Reg. No. 29188
Attorney

1/18/05
(Date)

Respectfully submitted,
MARK LEVY & ASSOCIATES, PLLC

By: _____

Mark Levy
Registration No. 29188
Attorney for Applicant
Press Building - Suite 902
19 Chenango Street
Binghamton, New York 13901
Phone: (607) 722-6600

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Amendments to the Drawings:

The attached sheets of drawings include changes to Figure 1. These sheets, which include Figures 1 - 3, replace the original sheets filed in the case.

Attachment: Replacement Sheets
 Annotated Sheets Showing Changes

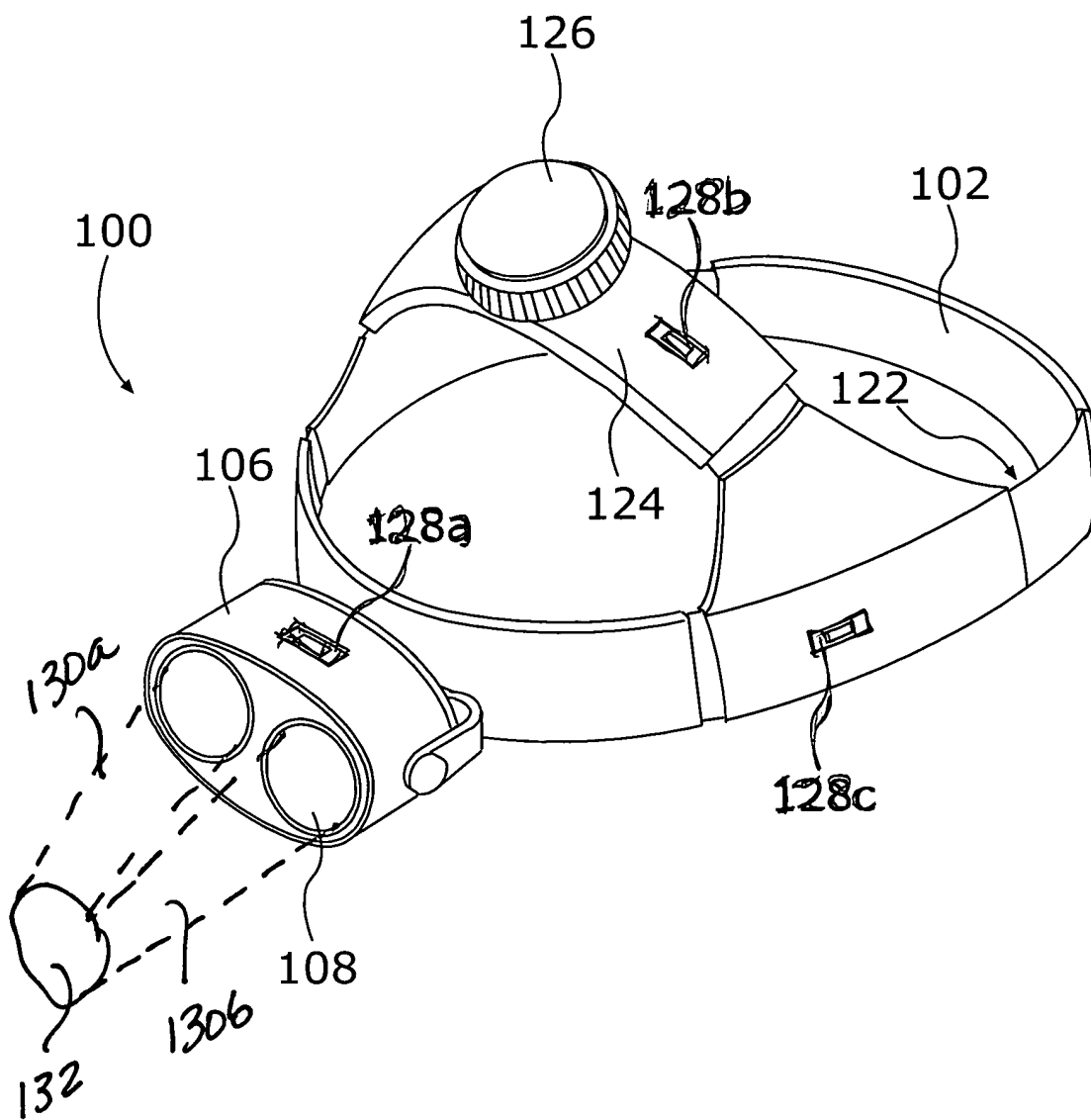


Figure 1

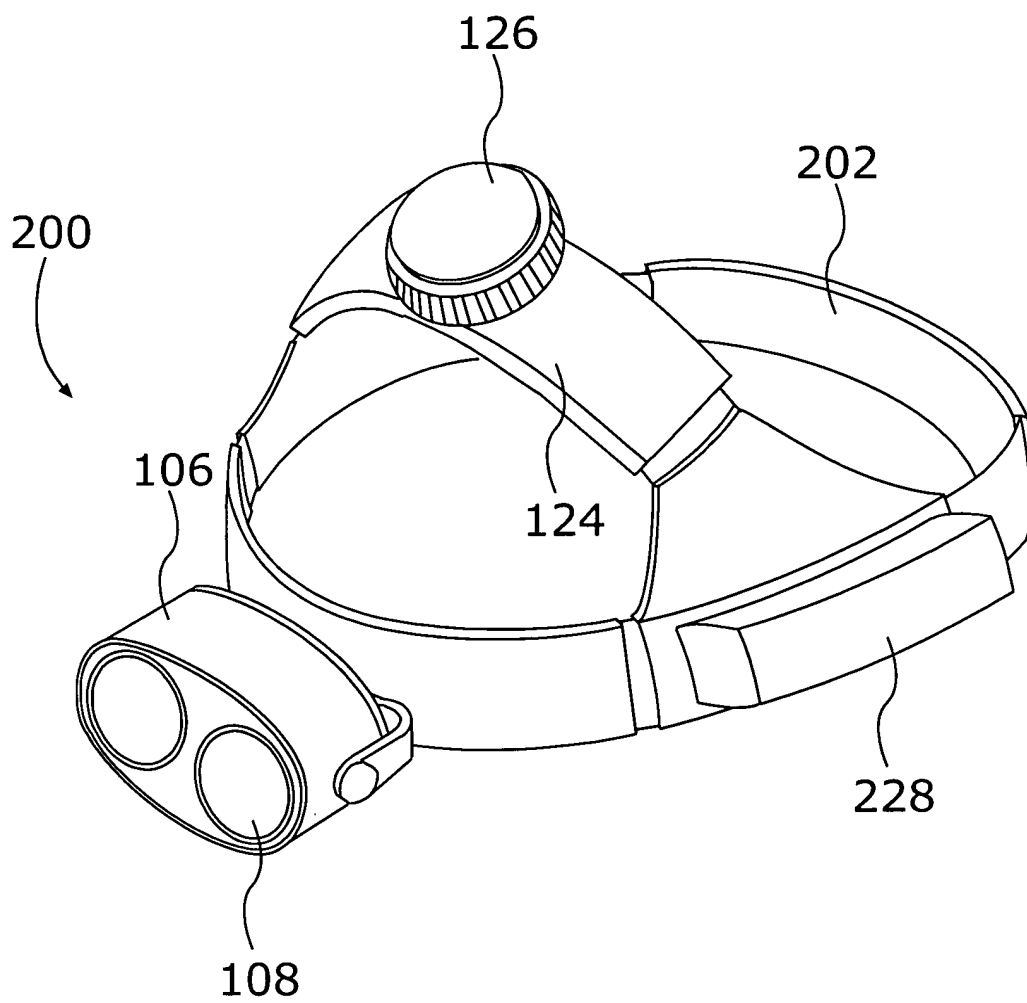


Figure 2

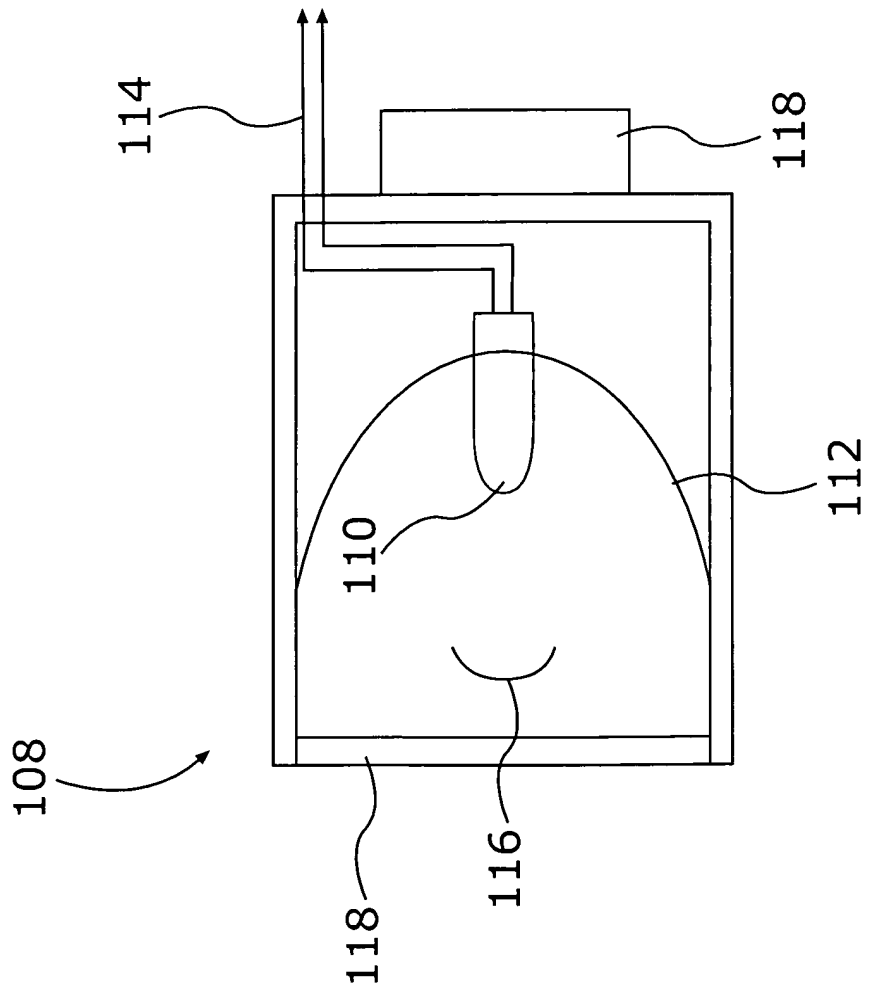


Figure 3